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The Honorable Mary Jo Heston

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8 THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 IN RE:) Chapter 13 Case No. 17-41464
11 DAVID WILLIAMS, and)
DEBRA WILLIAMS,)
12) **Adversary Case No.**
Debtor.)
13) COMPLAINT FOR DECLARATORY
DAVID WILLIAMS, and) JUDGMENT AVOIDING LIEN
14 DEBRA WILLIAMS, husband and wife)
15)
Plaintiffs,)
16)
v.)
17 PNC BANK NATIONAL ASSOCIATION,)
18)
Defendant(s).)

19 1.

20 This adversary proceeding arises out of Plaintiff's Chapter 13 case now pending before
21 this Court, bearing case number 17-41464. This Court has jurisdiction to consider the matters
22 herein, pursuant to 28 U.S.C. §§ 157 and 1334 and 11 U.S.C. §§ 506 and 1322. This is a core
23 proceeding under 28 U.S.C. §§ 157(b) (2)(A), (B), (K), and (O).

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25 2.

Complaint for Declaratory Judgment
Avoiding Lien - 1

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1 Plaintiffs are each a natural person residing in Olympia, Washington.

2 3.

3 Defendant PNC BANK NATIONAL ASSOCIATION is a corporation existing under the
4 laws of the State of Washington and is licensed to do business and actually does business within
5 the State of Washington.

6 4.

7 Plaintiffs are the owners of a parcel of real estate located in Olympia, Thurston County,
8 Washington, commonly described as 4922 Keating Road NW, Olympia, Washington 98502 and
9 this property is the Plaintiffs' personal residence.

10 5.

11 Prior to the filing of this bankruptcy case, Plaintiffs executed a Deed of Trust evidencing
12 a loan by Defendant. Such Deed of Trust was recorded in the Thurston County, Washington real
13 estate records on May 23, 2007. On the date of filing of Plaintiff's Chapter 13 Petition (April 13,
14 2017), Plaintiffs were indebted to Defendant under such instrument for the loan in the sum of at
15 least \$96,250.78, as reflected in Defendant's Proof of Claim filed with the Court on June 30,
16 2017, a copy of which is attached hereto as an Exhibit and incorporated herein as though fully set
17 forth.

18 6.

19 The value of Plaintiffs' real property referenced above is no more than \$259,000 as
20 reflected by an appraisal effective March 10, 2017, a copy of which appraisal is attached hereto
21 as an Exhibit and incorporated herein as though fully set forth. Accordingly, Debtors listed the
22 estimated market value of \$259,000 for their property in Schedule A of their bankruptcy
23 schedules. The debt owing on the senior lien to Select Portfolio Servicing, Inc. as servicer for
24 U.S. Bank National Association, as trustee, for the holders of the J.P. Morgan Alternative Loan
25 Trust 2006-S4, Mortgage Pass-Through Certificates was approximately \$272,989.77 per the
Complaint for Declaratory Judgment
Avoiding Lien - 2

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1 Amended Proof of Claim filed by the lender on October 18, 2017. The total of the liens senior to
2 Defendant's lien is approximately \$272,989.77.

3 7.

4 No equity exists in Plaintiffs' real property to which Defendant's lien can attach.
5 Therefore, pursuant to 11 U.S.C. §§ 506 and 1322, and In Re Zimmer, 313 F.3d 1220 (9th Cir.
6 2002), Plaintiffs are entitled to "strip off" the lien held by Defendant so that such lien becomes
7 voided and no longer remains a lien against Plaintiffs' real property.

8 THEREFORE, Plaintiffs pray for judgment voiding Defendant's lien against their real
9 property, and for such other and further relief as this court might deem just and equitable.

10 Dated this 18th day of June, 2018.

11 JILL COLLINS, P.C.

12 /s/ Jill Collins
13 Jill Collins, WSBA #28384
14 Attorney for Debtors/Plaintiffs

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Complaint for Declaratory Judgment
Avoiding Lien - 3

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